

REMARKS

Applicant's attorney is appreciative of the interview granted by Examiners Marschel and Stone on July 29, 2008. At that interview, an amendment to claim 27 was proposed, and the Examiners agreed that the amendment may overcome the reference of record by defining the composition as an oily liquid and removing capsules from consideration.

Claims 27-39 have been rejected under 35 USC 102(b) over Desjonqueres.

Desjonqueres discloses an oily composition including a peroxidized oil, a fragrance and colloidal silica. In this oily composition disclosed by Desjonqueres, the silica is present in an amount of 6.8% by weight, far outside the presently claimed range.

The rejection, however, considers the capsule in which this oily composition is contained to be part of the composition, and under this definition, the silica is present in an amount of 1.6% by weight.

While Applicant continues to believe that the invention as has been claimed clearly distinguishes over the cited reference, in order to advance prosecution, claim 27 has been amended to define the invention as proposed at the interview as a pharmaceutical composition in the form of an oily fluid, the oily fluid comprising peroxidized lipids which have a degree of peroxidation of between 5 and 600 milli-equivalents per kilogram, and silica which is dispersed within said peroxidized lipids, the oily fluid containing said silica in a concentration by weight of greater than or equal to 0.5% and less than 4%.

Thus, it is clear that according to the invention, it is the oily fluid which contains silica in an amount of greater than or equal to 0.5% and less than 4%. According to Desjonqueres, the oily fluid, i.e. the fluid within the

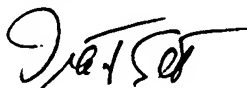
capsules, contains 6.8% silica.

As the Desjonquieres reference does not disclose or suggest an oily fluid having the claimed composition, withdrawal of this rejection is requested.

Claim 40 has also been amended to define the composition as an oily fluid, with claim 41 amended to recite the amount of silica in the oily fluid. As the invention of claims 27 and 40-41 has been shown to be clearly novel in view of US 5,254,585 to Desjonquieres, as well as in view of FR 2705568, Applicant submits that there is no basis for the restriction requirement, and examination of claims 40-50 is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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